

SIME DARBY EMPLOYEES ASSOCIATION, OSCAR E. PACIS, RAMON C. REYES, FRANCISCO R. REY, ROLITO C. MARTIREZ, RAUL E. BARDE, HELINO A. TIAMSON, JOSE G. AQUINO, ESTANILO M. SAMSON, CEL...

G.R. NO. 148021. December 06, 2006

Ponente: TINGA, J.

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TINGA, J.:

For the Court's adjudication is a petition for review under Rule 45, seeking to set aside the Decision of the Court of Appeals in CA-G.R. SP No. 54424, which affirmed the 30 April 1999 Resolution of the National Labor Relations Commission (NLRC) in NLRC NCR-CNS. 00-09-06571-95, 00-11-07577-95, 00-01-00284-96, CA No. 017268-98.[1]

The facts of the case, as culled from the findings of the Court of appeals follow.

Sometime in October 1995, Sime Darby Employees Association (the Union) submitted its proposal to Sime Darby Pilipinas, Inc. (the Company) for the remaining two (2) years of their then existing Collective Bargaining Agreement (CBA). The company gave its counter-proposal, but the parties failed to reach a mutual settlement. Thus, in a letter to the union president, the company declared a deadlock in the negotiations. Subsequently, the company sought the intervention of the Department of Labor and Employment (DOLE) by filing a Notice of CBA Deadlock and Request for Preventive Mediation.[2] Such action did not sit well with the union, which objected to the deadlock. It also filed its opposition to the Assumption of Jurisdiction/Certification to Arbitration.

The company filed a Notice of Lockout on 21 June 1995, on the ground of deadlock in the collective bargaining negotiations, docketed as NCMB-NCR-NL-06-013-95, and sent a Notice of Lock Out Vote[3] dated 24 July 1995 to the National Conciliation and Mediation Board (NCMB). On the other hand, the union conducted its strike vote referendum on 23 June 1995, and filed its Strike Vote Result Report [4]to NCMB also on 24 July 1995, and docketed as NCMB-NCR-NS-Case No. 06-265-95.

On 06 August 1995, the company declared and implemented a lockout against all the hourly employees of its tire factory on the ground of sabotage[5] and work slowdown. On September 1995, the Union filed a complaint for illegal lockout before the DOLE-NLRC, docketed as NLRC NCR Case No. 00-09-06517-95.

Meanwhile, on 19 October 1995, the stockholders of the company approved the sale of the company's tire manufacturing assets and business operation. The company issued a memorandum dated 20 October 1995 informing all its employees of the plan to sell the tire manufacturing assets and operations. Consequently, on 27 October 1995, the company filed with the DOLE a Closure and Sale of Tire Manufacturing Operation.

On 15 November 1995, the company individually served notices of termination to all the employees, including the individual petitioners.[6]

On account of the lockout, the employees were barred from entering company premises, and were only allowed to enter to get their personal belongings and their earned benefits on 21-22 November 1995. During said dates, the

employees likewise received their separation pay equivalent to 150% of the base rate for every year of credited service; they also signed and executed individual quitclaims and releases. On 24 November 1995, the company filed with the DOLE a Notice of Termination of Employees dated 17 November 1995, covering all its employees in the tire manufacturing and support operations effective 15 December 1995.[7]

In November 1995, petitioners filed a complaint for Illegal Dismissal before the DOLE, docketed as NLRC NCR Case No. 00-11-07577-95.[8] In January of the following year, petitioners filed a complaint for Unfair Labor Practice (ULP), docketed as NLRC-NCR Case No. 00-01-00284-96. The cases for illegal dismissal, illegal lockout and unfair labor practice were then consolidated and eventually assigned to Labor Arbiter Enrico Portillo.

On 24 April 1996, the company sold its tire manufacturing plant and facilities to Goodyear Philippines, Inc. (Goodyear) under a Memorandum of Agreement of even date.

On 20 August 1996, the company and its officers filed a motion to conduct ocular inspection of the tire factory premises to establish that it was sold to Goodyear.[9] The motion was opposed by the union.

On 14 July 1998, the company filed a motion for the return of the separation pay received by the complainants, pending the resolution of the case.

On 25 August 1998, Labor Arbiter Enrico Angelo C. Portillo issued an Order,[10] the dispositive portion of which reads:

WHEREFORE, premises considered, the respondents' instant motion[11] shall be treated in the resolution of the above-caption cases on the merits. In lieu of the continuation of the trial, the parties are hereby given the opportunity to submit their respective memorandum within ten (10) days from receipt hereof, and thereafter the instant cases shall be deemed submitted for resolution without further notice.

SO ORDERED.[12]

On 26 October 1998, the Union, without filing the memorandum as ordered by the labor arbiter, filed an Appeal Memorandum with a petition for injunction and/or a temporary restraining order before the NLRC.

On 29 October 1998, the labor arbiter rendered his Decision in the consolidated cases, dismissing for lack of merit petitioners' complaints against the company for illegal lockout, illegal dismissal and unfair labor practice. The labor arbiter found the lockout valid and legal, and justified by the incidents of continued work slowdown, mass absences, and consistent low production output, high rate of waste and scrap tires and machine breakdown. Likewise, the consequent mass termination of all the employees was declared to be a valid and authorized termination of employment due to closure of the establishment, the company having complied with the requirements laid down by Article 283 of the Labor Code, i.e., written notice of termination to the employees concerned, a report to the DOLE, and payment of the prescribed separation pay. He added that the company's decision to sell all of its assets was a valid and legitimate exercise of its management prerogative. Anent the claim of unfair labor practice, the labor arbiter found no evidence to substantiate the same, and that the records merely showed that the closure of and eventual cessation from business was justified by the circumstances in order to protect the company's investments and assets. Furthermore, the labor arbiter ruled that the quitclaims and receipts signed by petitioners were voluntarily signed, indicating that the settlement reached by petitioners and the company was just and reasonable. Finally, the labor arbiter declared that the motions for ocular inspection and return of separation pay filed by the company are rendered moot and academic in view of said Decision.[13]

The labor arbiter thus adjudicated:

WHEREFORE, foregoing premises considered, the consolidated complaints for illegal lockout, illegal

dismissal and unfair labor practice are hereby DISMISSED for lack of merit. The complaint against respondent SD Retread System, is likewise ordered dismissed for failure of the complainants to sufficiently establish and substantiate their claim that the latter and respondent Sime Darby are one and the same company, and for lack of employer-employee relationship.

SO ORDERED.[14]

Petitioners appealed the labor arbiter's Decision to the NLRC on 01 December 1998.[15] Said appeal, however, was dismissed on 30 April 1999 for lack of merit.[16] The NLRC affirmed en toto the labor arbiter's Decision. In addition, it ruled that the labor arbiter could not have lost jurisdiction over the case when petitioners appealed his 25 August 1998 Order since the Order was interlocutory in nature and cannot be appealed separately. Thus, the labor arbiter still had jurisdiction over the consolidated complaints when he issued his Decision. Petitioners' prayer for damages and attorney's fees was also struck down by the NLRC, holding that petitioners are not entitled thereto considering that it was not shown that the dismissal was done in a wanton and oppressive manner.[17] Petitioners' motion for reconsideration was also denied, prompting them to file a petition for certiorari with the Court of Appeals, claiming grave abuse of discretion on the part of the NLRC.

The Court of Appeals denied the petition for lack of merit and affirmed the Decision of the NLRC.[18] The appellate court declared that the labor arbiter's was not divested of its jurisdiction over the consolidated cases when petitioners filed their appeal memorandum on 26 October 1998 since the Order dated 25 August 1998 which they sought to appeal is interlocutory in nature. Thus, the labor arbiter's Decision. Thus, the labor arbiter's Decision has the force and effect of a valid judgment.[19] Finding that said Decision was supported by substantial evidence, the appellate court affirmed the dismissal of the complaints against SD Retread System for failure of the petitioners to substantiate the claim of the existence of employer-employee relationship.[20] Petitioners' sought reconsideration of the Court of Appeal's Decision, but their motion was denied for lack of merit.[21]

In the instant petition, petitioners reiterate that they were denied due process when they were dismissed right on the day they were handed down their termination letters, without the benefit of the thirty (30)-day notice as required by law, and invoke the Court's ruling in *Serrano v. NLRC*[22] They deny having executed quitclaims in favor of the company. Furthermore, petitioners insist that the labor arbiter had lost jurisdictional competence to issue his 29 October 1998 Decision since they have already perfected their appeal on 26 October 1998, making said Decision void ab initio. They likewise claim that the labor arbiter erred when it failed to consider as admitted the matters contained in their Request for Admission after respondents failed to file a sworn answer thereto. Finally, they allege that the decisions of the Court of Appeals and the NLRC lacked evidentiary support.

On the other hand, the company asserts that it complied with the 30-day notice requirement under Art. 283 of the Labor Code when it notified the employees on 15 November 1995 that their termination was to take effect on 15 December 1995. In any case, the alleged violation of the thirty (30) day notice requirement was never raised in the proceedings below, except in petitioners' supplemental motion for reconsideration of the Court of Appeals' Decision. This being the case, the issue of failure to abide by the 30-day notice rule can no longer be raised for the first time on appeal.[23] The company points out that the ruling in *Serrano*[24] does not apply to this case since *Serrano* involved the retrenchment of only one employee, Ruben Serrano, from an establishment which remained and continued in business, while in the present scenario, the company's business operation ceased for good, and the employees were furnished individual termination notices thirty (30) days before the actual date of separation.[25]

The company maintains that the 25 August 1995 Order, being in the nature of an interlocutory order, is unappealable hence, the labor arbiter retained its jurisdiction over the cases even after the Order was "appealed" to the NLRC. It maintains that the decisions of the labor arbiter and the NLRC and the Court of Appeals are

supported by substantial evidence. Furthermore, it insists on the legality of the lockout and termination of employment, and denies having committed an unfair labor practice.[26]

For its part, respondent SD Retread Systems, Inc. argues that it has a separate and distinct entity from Sime Darby Pilipinas, Inc., and hence, denies the existence of an employer-employee relationship with petitioners.[27]

The petition is bereft of merit.

Despite petitioners' attempt to phrase its issues to show apparent questions of law, it is obvious that the petition raises mostly factual issues, which are not proper in a petition for review. Rule 45 of the Rules of Court limits the function of the Court to the review or revision of errors of law and not to a second analysis of the evidence. The Court observes that petitioners come to this Court with the same arguments it presented in the proceedings below, which have been competently discussed and disposed of by the appellate court and the labor tribunals.

However, the petition presents two (2) questions of law which need to be addressed, to wit: (i) the alleged loss of jurisdictional competence on the part of the labor arbiter to issue his Decision after petitioners appealed his 25 August 1995 Order, and (ii) that petitioners' Request for Admission should have been granted and the evidence included therein should have been admitted since respondents' reply/objection thereto were not made under oath.[28]

The 25 August 1998 Order of the labor arbiter partakes the nature of an interlocutory order, or one which refers to something between the commencement and end of the suit which decides some point or matter but it is not the final decision of the whole controversy.[29] An interlocutory order is not appealable until after the rendition of the judgment on the merits for a contrary rule would delay the administration of justice and unduly burden the courts.[30] The 25 August 1998 Order merely terminated formal trial of the consolidated cases, declared that the motion for inspection will be dealt with in the resolution of the case, and ordered the submission of the parties' respective memoranda after which the case shall be submitted for resolution. It did not put an end to the issues of illegal lockout, ULP, and illegal dismissal.

Being interlocutory in nature, the 25 August 1998 Order could not have been validly appealed such that it would divest the labor arbiter of his jurisdiction over the consolidated cases. This being the case, the labor arbiter still had jurisdiction when he rendered his Decision.

Even if petitioners filed a special civil action for certiorari, which would have been the proper remedy, the same would still fail. The Court finds that the labor arbiter did not commit any grave abuse of discretion when he issued the 25 August 1998 Order. For one, the holding of an adversarial trial is discretionary on the labor arbiter and the parties cannot demand it as a matter of right.[31] Section 4, Rule V of the New Rules of Procedure of the NLRC[32] grants a labor arbiter wide latitude to determine, after the submission by the parties of their position papers/memoranda, whether there is need for a formal trial or hearing.[33] As this court has so often held, a formal type or trial-type hearing is not at all times and in all instances essential to due process the requirements of which are satisfied where the parties are afforded fair and reasonable opportunity to explain their side of controversy.[34] In one case, this Court held that a party has no vested right to a formal hearing simply and merely because the labor arbiter granted its motion and set the case for hearing.[35]

Related to the issue of jurisdiction is the allegation that the decisions of the Court of Appeals, the NLRC and the labor arbiter are without evidentiary support since the respondent was not able to present a single evidence due to the 25 August 1998 Order of the labor arbiter terminating the trial of the cases and requiring submission of the parties' memoranda, and ordaining at the end of the memorandum period the submission of the cases for decision.

Petitioners' argument that had the labor arbiter allowed respondents to present their evidence during the formal

trial, the Decision would have been different, cannot be sustained. As previously stated, the labor arbiter enjoys wide discretion in determining whether there is a need for a formal hearing in a given case, and he or she may use all reasonable means to ascertain the facts of each case without regard to technicalities. With or without a formal hearing, the labor arbiter may still adequately decide the case since he can resolve the issues on the basis of the pleadings and other documentary evidence previously submitted. When the parties submitted their position papers and other pertinent pleadings to the labor arbiter, it is understood/given/deemed that they have included therein all the pieces of evidence needed to establish their respective cases. The rationale for this rule is explained by the Court in one case, thus:

(P)etitioner believes that had there been a formal hearing, the arbiter's alleged mistaken reliance on some of the documentary evidence submitted by parties would have been cured and remedied by them, presumably through the presentation of controverting evidence. Evidently, this postulate is not in consonance with the need for speedy disposition of labor cases, for the parties may then willfully withhold their evidence and disclose the same only during the formal hearing, thus creating surprises which could merely complicate the issues and prolong the trial. There is a dire need to lessen technicalities in the process of settling labor disputes." [36]

Elementary is the principle that this court is not a trier of facts. Judicial review of labor cases does not go beyond the evaluation of the sufficiency of the evidence upon which its labor officials' findings rest. [37] As such, the findings of facts and conclusion of the NLRC are generally accorded not only great weight and respect but even clothed with finality and deemed binding on this Court as long as they are supported by substantial evidence. In the instant case, the Court finds that the labor arbiter's decision, which was affirmed by both the NLRC and the Court of Appeals cite as basis thereof the evidence presented by both the petitioners and respondents in their pleadings. It is no longer the Court's function to assess and evaluate all over again the evidence, testimonial and documentary, adduced by the parties to an appeal, particularly where the findings of both the labor arbiter, the NLRC and the appellate court trial court on the matter coincide, as in this case at bar. [38]

The submission that petitioners' Request for Admission should have been deemed admitted in their favor after respondents had failed to file a sworn reply or objection thereto cannot be sustained.

A request for admission is a remedy provided by Rule 26 of the Rules of Court, which allows a party to file and serve upon any other party a written request for the admission of : (i) the genuineness of any material and relevant document described in and exhibited with the request; or (ii) the truth of any material and relevant matter of fact set forth in the request. Said request must be answered under oath within the period indicated in the request, otherwise the matters of which admission were requested should be deemed admitted. Petitioners claim that respondents, instead of filing an answer under oath, filed an unsworn reply/objection thereto. Thus, the admissions should be deemed admitted in their favor.

Petitioners' Request for Admission does not fall under Rule 26 of the Rules of Court. A review of said Request for Admission shows that it contained matters which are precisely the issues in the consolidated cases, and/or irrelevant matters; for example, the reasons behind the lockout, the company's motive in the CBA negotiations, lack of notice of dismissal, the validity of the release and quitclaim, etc. [39] Rule 26 as a mode of discovery contemplates of interrogatories that would clarify and tend to shed light on the truth or falsity of the allegations in a pleading. That is its primary function. It does not refer to a mere reiteration of what has already been alleged in the pleadings. [40]

Otherwise stated, petitioner's request constitutes "an utter redundancy and a useless, pointless process which the respondent should not be subjected to." The rule on admission as a mode of discovery is intended "to expedite trial and to relieve parties of the costs of proving facts which will not be disputed on trial and the truth of which can be ascertained by reasonable inquiry." Thus, if the request for admission only serves to delay the proceedings

by abetting redundancy in the pleadings, the intended purpose for the rule will certainly be defeated.[41]

More importantly, well-settled is the rule that hearings and resolutions of labor disputes are not governed by the strict and technical rules of evidence and procedure observed in the regular courts of law. Technical rules of procedure are not applicable in labor cases, but may apply only by analogy or in a suppletory character, for instance, when there is a need to attain substantial justice and an expeditious, practical and convenient solution to a labor problem.[42] In view of the nature of the matters requested for admission by the petitioners, their request for admission would have only served to delay the proceedings.

One final note.

Petitioners claim that the alleged failure of the company to notify them of their termination renders their dismissal illegal, and thus they should be reinstated and paid with full backwages or given separation pay, following the Court's ruling in *Serrano v. Court of Appeals*. The argument does not hold. The ruling in *Serrano* has already been superseded by the case of *Agabon v. National Labor Relation Commission*.^[43] The *Agabon* enunciates the new doctrine that if the dismissal is for just cause but statutory due process was not observed, the dismissal should be upheld. While the procedural infirmity cannot be cured, it should not invalidate the dismissal. However, the employer should be held liable for non-compliance with the procedural requirements of due process.^[44] But in any case, the issue of illegal dismissal had already been resolved by the NLRC and the Court of Appeals, which both found that the company had an authorized cause and had complied with the requirements of due process when it dismissed petitioners.

WHEREFORE, the petition is DENIED and the Decision dated 31 July 2000 in CA-G.R. SP No. 54424 is AFFIRMED.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, Carpio-Morales, and Velasco, Jr., JJ., concur.

[1] Rollo, pp. 259-282; Penned by Commissioner Ireneo B. Bernardo and concurred in by Commissioners Lourdes C. Javier and Tito F. Gerilo.

[2] CA rollo, pp. 79-80.

[3]Id. at 91.

[4] Id. at 98.

[5] Earlier, the company, with the help of the National Bureau of Investigation (NBI), discovered that the machines in its recapping plant were deliberately broken down by still unknown perpetrators, rendering the machinery inutile.

[6] Records, Vol. VII.

[7] Records, Vol. III, pp. 698-710.

[8] Records, Vol. V, p. 2.

[9]NRLC Records, Vol. 8, pp. 17-19.

[10] NLRC Records, Vol. 8, pp. 69-71.

[11] Referring to respondents' motion for the return of separation pay.

[12] NLRC Records, Vol. 8, pp. 70-71.

[13] Decision of the Labor Arbiter, Rollo, pp. 248-258.

[14]Id. at 258.

[15] NLRC Records, Vol. 8, pp. 415-459.

[16]Rollo, pp. 259-282.

[17] Id.

[18] Decision dated 31 July 2000, id. at 43- 67.

[19]Id. at 58-59.

[20] Id. at 59-67.

[21] Resolution dated 20 April 2001, id. at 69-70.

[22]380 Phil. 416 (2000).

[23] Rollo, pp. 93-96.

[24] In *Ruben Serrano v. NLRC and Isetann Department Store*, supra, the Court ruled that an employee who is dismissed, whether or not for just or authorized cause but without prior notice of his termination, is entitled to full backwages from the time he was terminated until the decision in his case becomes final, when the dismissal was for cause; and in case the dismissal was without just or valid cause, the backwages shall be computed from the time of his dismissal until his actual reinstatement.

[25] Rollo, pp. 77-118; Comment To Petition For Review on Certiorari dated 22 October 2001.

[26] Id.

[27] Id. at 371-396; Comment (on the Petition for Review on Certiorari) dated 3 December 2003.

[28]Id. at 21-23, 25-30.

[29] *Bitong v. Court of Appeals, et al.*, G.R. No. 123553, 503 SCRA 292 (1998).

[30] *J.L. Bernardo Construction v. Court of Appeals*, 381 Phil. 25, 36 (2000).

[31] *Vinta Maritime Co., Inc. v. National Labor Relations Commission*, 348 Phil. 714, 726 (1998).

[32] Now Revised Rules of Procedure of the NLRC (2005), Rule V, Sec. 8.

[33] SEC. 4. Determination of Necessity of Hearing. – Immediately after the submission by the parties of their position papers/memorandum, the Labor Arbiter shall motu proprio determine whether there is need for a formal trial or hearing. At this stage, he may, at his discretion and for the purpose of making such determination, ask clarificatory questions to further elicit facts or information, including but not limited to the subpoena of relevant documentary evidence, if any, from any party or witness.

[34] *Taberrah v. National Labor Relations Commission*, 342 Phil. 394, 402 (1997).

[35] *Shoppes Manila, Inc. v. National Labor Relations Commission*, G.R. No. 147125, 14 January 2004, 419 SCRA 354, 360-361.

[36] *National Federation of Labor v. NLRC*, 347 Phil. 555, 565 (1997).

[37] *Fernandez v. NLRC*, 346 Phil. 432, 439 (1997).

[38] *P.J. Lhuillier Inc. And Philippe J. Lhuillie, v. National Labor Relations Commission*, G.R. No. 158758, 457 SCRA 784 (2005).

[39] NLRC Records, Vol. 1, 631-639.

[40] *Concrete Aggregates Corp. v. Court of Appeals*, 334 Phil. 77, 80 (1997).

[41] *Lañada v. Court of Appeals*, 426 Phil. 249, 260-261 (2002) citing *Po v. Court of Appeals*, 164 SCRA 668 (1988); *Briboneria v. Court of Appeals*, 216 SCRA 607 (1992); and *Concrete Aggregates Corporation v. Court of Appeals*, 266 SCRA 88 (1997) .

[42] *ABD Overseas Manpower Corporation v. NLRC*, 350 Phil. 92, 104 (1998).

[43] G.R. No. 158693, 17 November 2004, 442 SCRA 573.

[44] *Maquiling v. Philippine Tuberculosis Society*, G.R. No. 143384, 4 February 2005, 450 SCRA 465, 479.

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